

REMARKS

Applicants' attorney again thanks the Examiner for taking the time to discuss this case during our recent interview. Applicants have made the minor grammatical changes to claim 1 to remove intended use language, as the Examiner requested. As acknowledged, these changes should have no effect on the scope of the claim protection. Thus, as discussed in the interview, claims 1-24 are in allowable form and the Applicants respectfully request a Notice of Allowance.

While Applicants expect the claims to be allowed, Applicants address the rejections raised in the recent Office Action to confirm that none of the cited references, alone or in combination, render the current claims unpatentable. The Office has rejected the current claims on three separate basis: 1) that the claims are anticipated by Cunningham; 2) that the claims are obvious in light of Dykstra; and 3) that the claims are obvious in light of Treider. With regards to anticipation, the Office's entire argument consists of stating that "Cunningham discloses . . . using a computer for filling out an application on a web/page/server . . . an online credit report . . . based upon approval criteria . . . done in real-time." (Office Action at 2.) The Office apparently ignores that Cunningham does not disclose "product information regarding a plurality of products being offered for sale online," nor does it disclose "automatically identifying at least one of the plurality of products for which the buyer is at least likely to be approved to purchase using the at least one financing vehicle." Cunningham discloses a system for applying for a financial card (i.e. credit card). If approved, the financial institution then processes the application and sends the card to the applicant at a later date:

If the applicant accepts one of the offers, the application data for the applicant is forwarded to the financial institution that made the accepted offer. The financial institution then processes the application and makes arrangements to send the financial card to the applicant.

Cunningham (col. 5, lns. 1-5). Accordingly, the system disclosed in Cunningham does not provide a consumer with an automatic identification of products that he or she may buy. For each of these reasons, Cunningham does not anticipate claims 1-24 of the present application.

With regards to the Office's obviousness rejection, neither Dykstra or Treider render the pending claims obvious. Dykstra discloses an automated credit evaluation process. The Dykstra system, however, requires the merchant to enter the loan application information into a remote terminal. Thus, contrary to the Office's position, the process is not fully automated. Moreover, Dykstra does not provide "product information regarding a plurality of products being offered for sale online," nor does it disclose "automatically identifying at least one of the plurality of products for which the buyer is at least likely to be approved to purchase using the at least one financing vehicle." Thus, for at least each of the foregoing reasons, claims 1-24 are patentable over Dykstra.

Treider discloses a system for guaranteeing electronic payments by granting a buyer a pre-approved credit limit. Treider, however, does not disclose the steps necessary for completing the approval process, let alone providing any indication on how the process is completed in real-time. Instead, Treider simply states that the application process is handled by a financial institution. Treider (col. 10, lns. 30-32) ("Applications for credit and guarantee are forwarded to the financial institution for review.") Likewise, Treider does not provide "product information regarding a plurality of products being offered for sale online," nor does it disclose "automatically identifying at least one of the plurality of products for which the buyer is at least likely to be approved to purchase using the at least one financing vehicle." Thus, for at least each of the foregoing reasons, claims 1-24 are patentable over Treider.¹

¹ In the event that the Office instead chooses to maintain its obviousness rejection, the Office should be required to provide a new rejection providing a clear basis for its position. M.P.E.P. Section 707 and 37 CFR 1.104(c)(2) both require an Examiner to clearly state the basis for rejecting the claims. Examiners are required to address each limitation of each claim, and are prohibited from making omnibus rejections of all claims unless that rejection is applicable to all claims. Not only did the Office not clearly articulate the basis for rejecting each pending claim, but the Office failed to address numerous limitations contained in the pending claims. Thus, in the event that the Office intends to maintain this objection, the Office should be required to comply with its obligations under the M.P.E.P. and Code of Federal Regulations, and clearly articulate its basis for rejecting each of the pending claims.

CONCLUSION

Based on at least the foregoing, the Applicants believe that claims 1-24 are in condition for allowance.


Applicants appreciate the Office's thorough examination of this case, which has been pending for over six years and has been subject to multiple different rejections in light of multiple different references. Given the state of the prosecution, however, if the Examiner disagrees or has any question regarding this submission, the Applicants request that the Examiner set-up a telephone interview with the undersigned at (312) 775-8000 prior to issuing any further action.

A Notice of Allowance is courteously solicited.

Respectfully submitted,

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By: _____



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